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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,458	09/30/2003	Jeyhan Karaoguz	14762US02	5610
23446 7590 06/30/2011 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661				
EXAMINER LANGHNOA, KUNAL N				
ART UNIT 2427		PAPER NUMBER		
NOTIFICATION DATE 06/30/2011		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mhmpto@mcandrews-ip.com

Office Action Summary

Application No.

10/675,458

Applicant(s)

KARAOGUZ ET AL.

Examiner

KUNAL LANGHNOJA

Art Unit

2427

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 04/18/2011 has been entered.

Response to Arguments

2. Applicant's arguments filed 04/18/2011 have been fully considered but they are not persuasive.

With respect to claim 1, applicant argues cited reference fails to teach claimed limitation "determining at a second geographic location, when personal media is scheduled in at least one constructed display for presentation at a first geographic location, wherein said scheduling is performed at said first geographic location." The examiner respectfully disagrees.

Novak et al teaches determination of scheduled broadcast media using an EPG 153, which is constructed/produced by a local studio 106 and/or cable service provider 108) (Figure 1, Para. 0038-39, 0041), wherein personal media can be scheduled by an

individual acting as a program director, upload source)(Figures 1, 6 and 7; Para. 0067-68). Furthermore, upload source 122 can have an agreement or communication with the local studio 106 and/or provider 108, such that the presence of and URL address of the web site 124 is known to these parties. These parties can make arrangements to allow cable subscribers to be provided with media program from website and to provide/update the EPG 153 with media programs that are available from the website (Figures 1, 6-7; Para. 0041). Therefore, Novak's EPG not only consist exclusively of broadcast media but also is able to provide personal media.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The examiner relied on Ellis et al to teach claimed limitation at least one constructed display for presentation at a first geographic location (see rejection below). In addition examiner relied on Novak et al to teach claimed limitation determining, at another location that personal media is scheduled at the first geographic location (see rejection below).

Ellis et al teaches the presentation of the constructed display is provided at the contributor side. The contributors are presented with input screen 196, which can be used for scheduling purposes (Figs.8,14, Col .11 lines 45-51). A contributor can be a subscriber in a given cable system (Co1.14 lines 24-31). Thus, Ellis et al meets claimed limitation EPG is scheduled at a given location for presentation at the same location.

In addition, applicant argues cited references fail to teach claimed limitation "acquiring at said second geographic location, information related to broadcast media from at least one media provider and information related to said personal media, wherein said information related to said broadcast media is associated with a media subscription established at said first geographic location." The examiner respectfully disagrees. As explained above, Novak et al teaches determination of scheduled broadcast media using an EPG 153, which is constructed/produced by a local studio 106 and/or cable service provider 108) (Figure 1, Para. 0038-39, 0041), wherein personal media can be scheduled by an individual acting as a program director, upload source)(Figures 1, 6 and 7; Para. 0067-68). Furthermore, upload source 122 can have an agreement or communication with the local studio 106 and/or provider 108, such that the presence of and URL address of the web site 124 is known to these parties. These parties can make arrangements to allow cable subscribers to be provided with media program from website and to provide/update the EPG 153 with media programs that are available from the website (Figures 1, 6-7; Para. 0041). Thus, references teach all the limitation present in claim 1.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 11 sets forth a "machine-readable

storage." However, the specification as originally filed does not explicitly define the machine-readable storage. The United States Patent and Trademark Office (USPTO) is obliged to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. *See In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms reasonably allow). The broadest reasonable interpretation of a claim drawn to a machine-readable storage (also called computer readable storage media and other such variations) typically covers forms of non-transitory tangible media and transitory propagating signals *per se* in view of the ordinary and customary meaning of computer readable media, particularly when the specification is absent an explicit definition or is silent. *See* MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal *per se*, the claim must be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter. *See In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter) and *Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101*, Aug. 24, 2009; p. 2.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novak (US Patent Application Publication 2002/0104099 A1) in view of Ellis et al. (US Patent No. 6,774,926 B1).

Regarding claim 1, Novak et al teaches a method for processing media for selection and playback in a communication network, the method comprising:

determining at a second geographic location (i.e. determination of scheduled broadcast media using an EPG 153, which is constructed/produced by a local studio 106 and/or cable service provider 108) (Figure 1, Para. 0038-39, 0041), wherein said scheduling is performed at said first geographic location (i.e. personal media can be scheduled by an individual acting as a program director, upload source)(Figures 1, 6 and 7; Para. 0067-68);

acquiring at said second geographic location, information related to broadcast media from at least one media provider and information related to said personal media, wherein said information related to said broadcast media is associated with a media subscription established at said first geographic location (i.e. acquisition of synthetic broadcast channel including information with respect to personal media from an upload

source, wherein synthetic broadcast channel can be provided to end user(s) via subscription) (Figures 1, 6-7; Para. 0010, 0039, 0058, 0067-68 and 0070); and

updating from said second geographic location, said at least one constructed display, based on said acquired information (i.e. local studio 106 and/or provider 108 updating EPG based on information received) (Figures 1 and 2; Para. 0010, 0041 and 0079). However, the reference is unclear with respect to when personal media is scheduled in at least one constructed display for presentation at a first geographic location.

In similar field of endeavor, Ellis et al teaches a personal television channel system in which contributors such as individuals in the home may create personal television channel programming and may set up scheduling for the personal television channel programming- whereby the contributor and the viewers may use the same user equipment thus enabling a contributor to receive scheduling information of personal and/or traditional television channels (Abstract; Fig. 1; col. 1, lines 46-51; col.2, line 65 to col.3, line 6; col.3, lines 18-28; col.4, lines 59-61; col.5, lines 15-22; col. 11, lines 45-51; col. 14, lines 23-32).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teaching of the Novak reference with those of the Ellis et al. reference in order to allow a contributor to receive the personal channel listing that they have contributed. A person of ordinary skill in the art would have been motivated to make such a modification to the Novak reference so as to provide an overall more

enjoyable viewing experience by permitting a contributing party to view personal media programming that they are most likely to be interested in.

Regarding claim 2, Novak and Ellis, the combination teaches everything claimed (see claim 1). The combination teaches transferring to said first geographic location said updated at least one constructed display for presentation at said first geographic location (Ellis: Abstract; Fig. 1; col. 1, lines 46-51; col.2, line 65 to col.3, line 6; col.3, lines 18-28; col.4, lines 59-61; col.5, lines 15-22; col. 11, lines 45-51; col. 14, lines 23-32).

Claim 3 is rejected wherein accessing subscription information related to said broadcast media scheduled in said at least one constructed display (i.e. the acquisition of subscription information by a cable service provider's 108, in order to selectively send an updated EPG 153 containing a synthetic broadcast channel (Figs.1, 7, and 11; paragraphs [0010], [0075] & [0080]).

Claim 4 is rejected wherein storing broadcast media content corresponding to said broadcast media and said accessed subscription information (i.e. the storage to a server of uploaded media objects to be provided to a client terminal (Figs.1, 2, 4, & 5; paragraphs [0010], [0039], [0043], [0055], [0056], [0061]).

Claim 5 is rejected wherein communicating said stored broadcast media content to said first geographic location where said updated at least one constructed display is presented (i.e. the transmittal of stored uploaded media objects to a client terminal via a synthetic broadcast channel from local studio 106 and/or provider 108, which is included in an updated EPG 153 (*Fig.1,2,4,& 11; paragraphs [0010], [0060], [0069], [0085], [0087]*)).

Claim 6 is rejected wherein combining, at said second geographic location, representations of updated broadcast media and/or said personal media in said at least one constructed display based on said acquired information (Figs. 8 & 9; paragraphs [0026], & [0070]-[0074]).

Claim 7 is rejected wherein generating at least one updated constructed display comprising at least representations of said updated broadcast media and/or said personal media (i.e. production/generation of an updated EPG by a local studio 106 and/or a cable service provider 108) (*Figs. 1 & 7; paragraphs [0037], [0041], [0068]*).

Claim 8 is rejected wherein rescheduling presentation of one or both of said broadcast media and/or said personal media via said updated at least one constructed display to prevent scheduling conflicts (i.e. re-sequencing of media objects, to be presented on an electronic program guide, if an individual at an upload source 122 schedules one or more media objects for the same time slot (paragraph [0065]).

Claim 9 is rejected wherein said at least one constructed display is one or more of a channel guide, device guide and/or a media guide (i.e. EPG 153) (paragraphs [0010], [0026], [0037], [0083], [0087]).

Claim 10 is rejected wherein formatting said at least one constructed display in a graphical user interface (Para. 0037-38 and 0054).

Claims **11, 21, 31 & 32** are met as previously discussed with respect to Claim 1.

Claims **12, 22, & 33** are met as previously discussed with respect to Claim 2.

Claims **13, 23, & 34** are met as previously discussed with respect to Claim 3.

Claims **14, 24, & 35** are met as previously discussed with respect to Claim 4.

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Claims **15, 25, & 36** are met as previously discussed with respect to Claim **5**.

Claims **16 & 26** are met as previously discussed with respect to Claim **6**.

Claims **17 & 27** are met as previously discussed with respect to Claim **7**.

Claims **18 & 28** are met as previously discussed with respect to Claim **8**.

Claims **19, 29, & 37** are met as previously discussed with respect to Claim **9**.

Claims **20, 30, & 38** are met as previously discussed with respect to Claim **10**.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KUNAL LANGHNOJA whose telephone number is (571)270-3583. The examiner can normally be reached on M-F 10:00 A.M.- 6:30 P.M. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on 571-272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. L./
Examiner, Art Unit 2427

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427